

# Agencies Defend Monitoring

10/18/78 By Spencer Rich  
Washington Post Staff Writer

Federal agencies have strongly objected to a proposed regulation barring special listening devices to monitor phone calls from citizens seeking information.

In a series of letters to the General Services Administration, which is seeking to curb the devices, the Internal Revenue Service, Civil Service

Commission, and Justice Department revealed that they listen in on hundreds of thousands of calls each year without revealing to the caller that a third party may be on the line.

In a typical case, an individual may call the IRS and ask information about tax laws. Unknown to him, unless he has read a tiny notice line on his tax return booklet, a supervisor or other silent third-party may be listening on as extension or push-to-listen device.

The Internal Revenue Service, which says it monitors 325,000 calls a year, said the practice is necessary to determine whether tax advisers are giving the public accurate information courteously.

The IRS also said, however, that it uses the telephone monitoring devices as "a valuable and sometimes indispensable tool" for criminal investigations involving the tax laws—for example, when an employee reports a bribery attempt.

The dispute over the listening devices arose after the GSA, with the backing of Reps. John E. Moss (D-Calif.), Dale E. Kildee (D-Mich.) and Max Baucus (D-Mont.) and of presidential counsel Robert J. Lipshutz, published a proposed regulation last June 27.

Under an existing rule, the use of special listening devices is already barred when it is done surreptitiously—that is, without notice to the caller or to the person he is calling—unless express permission is granted by law or a court order or the device is installed for public safety purposes.

However, existing regulations don't prohibit it when advance notice is given either to the caller or the recipient of the call. The GSA proposed to bar the third-party listening devices even when advance notice was given to one party or another.

In some cases under existing practices, the public was given general blanket notice that calls might be monitored; in other cases, employees of an agency were given such notice. An individual normally wouldn't know that a specific call was being monitored; only that a call might be.

Publication of the proposed new rule brought a batch of letters from government agencies—and even some government contractors—strenuously objecting to the proposed cutoff of listening devices in cases where some sort of notice had been given and at least one party to the call had consented.

Jerome Kurtz, commissioner of internal revenue, said the IRS receives

## of Citizens' Calls

30 million phone calls yearly from taxpayers seeking advice on various tax matters. Employees know they may be monitored. Callers are advised of possible monitoring "in our tax packages" (tax-instruction booklets mailed to taxpayers with their tax return forms).

Kurtz also wrote, "I am also concerned that the proposal would undercut our established investigative techniques in bribery attempt and criminal enforcement cases..."

The Social Security Administration, which said its information centers receive 63,000 calls a day, said it wants to monitor 3,000 a week, with some sort of advance notice to the callers (perhaps a recorded message heard by the caller but not the Social Security information agent).

The Civil Service Commission also objected to the proposed regulation, asserting it uses monitoring devices to train employees how to answer public inquiries and to check on the quality

of their work.

The Justice Department objected, saying FBI and other Justice personnel routinely use third-party listening devices in criminal investigations, with the consent of the government agent, in "thousands" of cases each year.

And some major university research centers and private survey organiza-

tions that conduct telephone surveys under contract to the government objected because, they said, they need the phone listening devices for quality control purposes.

An interesting response came from another section of the GSA. William Clinkscales, acting director of investigations, said recent investigations of fraud in the GSA "were initiated" as a result of telephone monitoring by the GSA of the type which GSA is proposing to limit.